

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

SALINAS CITY ELEMENTARY SCHOOL
DISTRICT, MONTEREY COUNTY
OFFICE OF EDUCATION AND SANTA
RITA UNION SCHOOL DISTRICT.

OAH CASE NO. 2013071259

ORDER DENYING MOTION TO
BIFURCATE ISSUES BY SALINAS
CITY ELEMENTARY SCHOOL
DISTRICT

On July 26, 2013, Parents on behalf of Student (Student) filed with the Office of Administrative Hearings (OAH) a Due Process Hearing Request (complaint), naming the Salinas City Elementary School District (Salinas) and the Monterey County Office of Education as respondents. On September 9, 2013, Student filed a Motion to Amend the Due Process Hearing Request (amended complaint) in order to add the Santa Rita Union School (Santa Rita) District as a respondent. OAH granted Student leave to file his amended complaint (AC) on September 11, 2013. The AC contains two issues. Issue One alleges that Student was deprived of a free appropriate public education (FAPE) during school year 2011-2012 and the extended school year (ESY) of 2012. Issue Two contends that Student was deprived of a FAPE during school years 2012-2013 and 2013-2014 and the 2013 ESY.

On September 25, 2013, Salinas filed a motion to bifurcate issues for hearing. Salinas seeks to bifurcate whether or not Student was a resident of the Salinas City Elementary School District during the 2012-2013 school year.

APPLICABLE LAW

Federal and state laws pertaining to special education due process administrative proceedings do not contain a specific reference to the procedure for bifurcating issues at trial. Such authority resides in the discretion of the administrative law judge, provided the separate hearings are conducive to judicial economy or efficient and expeditious use of judicial resources. (See Gov. Code, § 11507.3, subd. (b).)

Generally, OAH will bifurcate a hearing where the resolution of a threshold question will determine whether the remainder of a hearing will be necessary. For example, OAH will bifurcate the issue of whether a student is or was a resident of a school district named as a respondent in a complaint to determine if the district was appropriately named as a party.

OAH has also bifurcated specific legal issues such as the statute of limitations because a determination of that issue may reduce or eliminate issues and determine whether the remainder of the hearing will be necessary. Bifurcation limiting parties or issues furthers judicial economy by dismissing a named respondent from a complaint, or by finding that no complaint exists against a respondent due to the student's lack of residency, or that the issue is barred by the statute of limitations.

DISCUSSION

Student cites as authority in support of his motion the consolidated OAH case of *Student v. Alpine County Unified School District* OAH Case Nos. 2012100284/2012080276 (*Alpine*). In *Alpine*, the District's defense was that Student had not been a resident of the District so that the District was not responsible for providing a FAPE to Student. Thus, the determination of that issue might result in determining the student's entire claim. Determination of the residency issue first would therefore serve judicial economy.

In the instant matter, that is not the case. Salinas has offered the defense that it is not the responsible local education agency for providing Student a FAPE during one of three school years at issue in Student's amended complaint. Determination of the residency issue will not lead to judicial economy in that resolution of that issue will not eliminate the time and expense of going to hearing. Even if Salinas were to prevail at a bifurcated hearing that it was not responsible for providing Student with an education during the 2012-2013 school year, it would still remain a party and have to defend against Student's allegations that it was responsible for but failed to provide Student with an appropriate education during the 2011-2012 and 2013-2014 school years. Judicial economy is therefore not served by bifurcating the issue of whether Student resided within Salinas's boundaries for the 2012-2013 school year. Salinas can raise that defense as to its responsibility, as opposed to the other two respondents, for providing FAPE for school year 2012-2013 and ESY 2013 during the course of the due process hearing.

ORDER

Salinas's motion to bifurcate is denied. The matter shall proceed as scheduled.

Dated: October 3, 2013

/s/

ROBERT HELFAND
Administrative Law Judge
Office of Administrative Hearings